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CBS Libel Jury Is Told Enemy Not Understated

By M. A. FARBER

A military intelligence officer testified yesterday that, contrary to statements made by CBS in a 1982 documentary, North Vietnamese infiltration into South Vietnam in 1967 was not understated by Gen. William C. Westmoreland's command.

Appearing as the 12th witness for General Westmoreland in his \$120 million libel suit against the network, Col. John F. Stewart said that official infiltration figures in the months before the Tet offensive of January 1968 "were about right" and that the offensive had been expected for half a year.

"If we had grossly underestimated infiltration we would have seen a much larger attack," Colonel Stewart said. "But, in fact, we saw differently." The colonel stated that, within a month of the Tet offensive, about 85 percent of the estimated 100,000 North Vietnamese and Vietcong troops who took part in it were killed or disabled.

Colonel Stewart — the only military witness so far in the trial who is still on active duty — told the jury that military intelligence was "not an exact science" and that infiltration and other estimates of enemy strength should not be taken as irrefutable.

'Numbers Are Not Gospel'

"You know," he said, "there was a love of numbers in Washington in the 1960's. But these numbers are not gospel."

Colonel Stewart, who was chief of military intelligence on Grenada during the United States invasion in 1983 and is now head of a 1,600-member intelligence unit at Fort Bragg, N.C., also testified that:

"As a captain in South Vietnam, he regularly briefed General Westmoreland in the fall of 1967 and the general never asked him to skew his analysis of enemy activities."

"General Westmoreland's decision to delete the Vietcong's self-defense and secret self-defense forces from the official listing of enemy strength known as the order of battle in mid-1967 was made after much 'give and take' and after the command was told American troops had 'little contact' with such forces."

"He was aware that some intelligence officers believed that North Vietnamese infiltration into South Vietnam was substantially higher than was being officially reported but he disagreed with their conclusions and their methodology."

In the CBS documentary that was the basis for General Westmoreland's libel suit — "The Uncounted Enemy: A Vietnam Deception" — the network said that reports of high enemy infiltration in the fall of 1967 were "systematically blocked" by General Westmoreland's command.

CBS also said in the documentary that, by such "tactics" as excluding the Vietcong's self-defense forces from the order of battle, senior intelligence officers had engaged in a "conspiracy" to minimize enemy strength to make it appear that America was winning the war.

Colonel Stewart, whose testimony will conclude today, joined the Army in 1962 and served his first of two tours in Vietnam between March 1967 and April 1968. He was an analyst in General Westmoreland's "current intelligence" unit and held the rank of captain.

Planning 'Major Operation'

Colonel Stewart testified that, in September 1967, he was ordered by his superiors to evaluate information indicating a change in enemy strategy. He found, he said, "that the enemy was planning a major operation in a coordinated fashion."

"There was a lot of talk, particularly in the diaries of North Vietnamese soldiers, that they were going to come into populated areas, into hamlets and other places, and liberate the people," Colonel Stewart said.

In late November, the colonel said, "we concluded that the North Vietnamese were taking an unprecedented step in sending major combat troops south" along the Ho Chi Minh Trail and into sanctuaries in Laos. Colonel Stewart said he had access at the time to sensitive data on enemy movements provided by the National Security Agency.

Under direct examination by David Dorsen, a lawyer for General Westmoreland, Colonel Stewart said by mid-January 1968, the infiltrators in these units — separate from North Vietnamese who regularly entered South Vietnam as "replacements" — totaled at least six regiments, each with 2,000 to 2,400 men.

Not all of these regiments, he said, came into South Vietnam at once. After the Tet offensive, the colonel added, he confirmed that seven or eight regiments, numbering at most a total of 20,000 troops, had infiltrated.

Under cross-examination by David Boies, a lawyer for CBS, the witness said that the rate of infiltration between a major November 1967 was about 5,000 to 8,000 a month — the approximate figures published at the time by General Westmoreland's command. In December of that year, he said, the figure jumped to about 10,000; in January 1968 it doubled.

85 Percent Casualties

Colonel Stewart said that of the 100,000 enemy troops "committed" to the Tet offensive, 70,000 were killed by late February 1968, and 15,000 other casualties were put out of action.

The witness was unable to recall on the stand how many of the 85,000 were North Vietnamese forces and how many were Vietcong. But Mr. Boies showed Colonel Stewart a copy of a deposition, taken only days ago, in which he indicated that North Vietnamese forces made up 55 to 60 percent of the killed or wounded.

"That was only a guess," Colonel Stewart said.

"Well, you didn't call it a guess then, did you?" Mr. Boies said.

The CBS documentary quoted some intelligence officers as saying that infiltration throughout the fall of 1967 was at the rate of 25,000 a month. Those figures, Colonel Stewart said yesterday, were unreliable.

Colonel Stewart said he that on the occasions when he briefed General Westmoreland on enemy activities, he found the general "businesslike, precise and incisive. He raised questions in a terse manner and he expected you to have the answers."

Mr. Dorsen followed up:

Q. Did he ever indicate to you how he wanted you to come out with an analysis?

A. No.

Q. Did you ever see that in any intelligence officer?

A. No, I did not.